

REMARKS

Claims 1-30 are pending in the present application. Claims 1-8 and 14-21 were previously withdrawn from consideration as drawn to a non-elected invention. By virtue of this response, claims 9-12 and 28-29 have been cancelled and claims 13 and 30 have been amended. No new claims have been added. Accordingly, claims 13, 22-27, and 30 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

Information Disclosure Statement

Applicants acknowledge that the Information Disclosure Statement submitted on June 6, 2007 has been considered.

Claim Rejections under 35 U.S.C. §112

Claims 13 and 30 stand rejected under 35 U.S.C. §112, second paragraph. Specifically, the Office Action states that there is insufficient antecedent basis for the limitation “the step of diverting said continued flow of air into said isolated sample volume” in each of claims 13 and 30. Applicants respectfully point out that claims 13 and 30 as originally filed and as amended, recite a further step of diverting said continued flow of air or gas into said isolated sample volume. This is further to the step of diverting a continued flow of air or gas past the sample volume. (See, e.g., paragraphs [0022] to [0024] of the specification). In view of the foregoing, Applicants submit that antecedent basis is not required, and respectfully request that the outstanding rejections under 35 U.S.C. §112 be withdrawn.

Claim Rejections under 35 U.S.C. §102

Claims 9, 10, 12, 28 and 29 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Pub. No. 2005/0177056 to Giron et al. (“Giron”). For purposes of expediting prosecution and allowing this case to immediately pass to issuance, Applicants have canceled

claims 9, 10, 12, 28, and 29, thus rendering the outstanding rejection under 35 U.S.C. §102(e) moot. Applicants respectfully request that this rejection be withdrawn.

Claim Rejections under 35 U.S.C. §103

Claim 11 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Giron. For purposes of expediting prosecution and allowing this case to immediately pass to issuance, Applicants have canceled claim 11 thus rendering the outstanding rejection under 35 U.S.C. §103 moot. Applicants respectfully request that this rejection be withdrawn.

Allowable Subject Matter

Applicants thank the Examiner for indicating that Claims 22-27 are allowed and that claims 13 and 30 would be allowable if rewritten to overcome the rejections under 35 U.S.C. §112, and to include all the limitations of the base claim and any intervening claim. With respect to the 35 U.S.C. §112 rejection, Applicants submit that proper antecedent basis is provided for the phrase “the step of diverting said continued flow of air into said isolated sample volume,” as previously explained. Claims 13 and 30 have also been rewritten to include all the limitations of the base claim and any intervening claim. Accordingly, Applicants submit that all currently pending claims are now in immediate condition for allowance.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby.


Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child, or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 643132000200.

However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: April 21, 2011

Respectfully submitted,

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